

APPLICATION FOR OCCUPATIONAL AND PROFESSIONAL LICENSURE

UTAH LEGISLATURE OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE

This application is provided in accordance with Utah Code Title 36, Chapter 23, Occupational and Professional Licensure Review Committee Act.

Specifically, Utah Code § 36-23-105 requires that when an applicant on behalf of an occupation that is not licensed by the state of Utah proposes that the state license or newly regulate the occupation, the applicant shall, prior to the introduction of any proposed legislation, submit an application for sunrise review to the Office of Legislative Research and General Counsel in a form approved by the Occupational and Professional Licensure Review Committee.

In addition, unless the application is submitted by a government requestor (meaning the governor, an executive branch officer, an executive branch agency, a legislator, or a legislative committee), the application shall include a nonrefundable fee of \$500 that will be deposited into the General Fund of the state.

Accordingly, The Occupational and Professional Licensure Review Committee requires that an applicant seeking the licensure or regulation of an occupation submit this application, including providing a written response to each of the items in this application and, if applicable, submitting the nonrefundable \$500 fee, before the committee will schedule a sunrise review related to the licensing or new regulation of the occupation.

Section A: APPLICANT GROUP INFORMATION

1. What occupational group is seeking regulation? Identify by name, address, and associational affiliation the individuals who should be contacted when communicating with this group regarding this application.
2. List all titles currently used by Utah practitioners of this occupation. Estimate the total number of practitioners now in Utah and the number using each title.
3. Identify each occupational association representing current practitioners in Utah and estimate the membership of each. Additionally, list the name of any associated national groups.
4. Estimate the percentage of practitioners who support this request for regulation. Document the source of this estimate.
5. Name the applicant group representing the practitioners in this effort to seek regulation. How was this group selected to represent practitioners?
6. Are all practitioner groups listed in response to item 3 represented in the organization seeking regulation? If not, why not?

Section B: CONSUMER GROUP INFORMATION

7. Do practitioners of the occupation typically deal with a specific consumer population? Are clients generally individuals or organizations? Please provide documentation.

8. Identify any advocacy groups representing Utah consumers of services provided by practitioners of the occupation. Additionally, provide the name of any applicable national advocacy groups.
9. Identify any consumer populations not using practitioner services who are likely to do so if regulation is approved.
10. Does the applicant group include consumer advocate representation? If so, please provide documentation. If not, describe the efforts, if any, made to include such representation.
11. Name any non-applicant groups opposed to or with an interest in the proposed regulation. If none, indicate efforts made to identify them.

Section C: SUNRISE REVIEW CRITERIA

Part I: *State regulation of the lawful occupation is necessary to address a compelling state interest in protecting against present, recognizable, and significant harm to the health or safety of the public.*

12. What is the nature and severity of the harm to the public? How has the unregulated practice of the occupation or profession clearly harmed or endangered the health or safety of the public? Provide documentation for any physical, social, intellectual, financial, or other consequences to consumers resulting from incompetent practice of the occupation.
13. How likely is it that harm will occur? Does the potential for harm or endangerment easily recognizable and not remote? Cite cases or instances of consumer injury. If none, how is harm currently avoided?
14. What provisions of the proposed regulation would preclude consumer injury? How would regulation of the occupation or profession significantly diminish an identified risk to the health or safety of the public?
15. Is there significant public demand for a regulatory standard? Please provide documentation.

Part II: *The public needs, and can reasonably be expected to benefit from, an assurance of initial and continuing professional or occupational competence.*

16. What specific benefits will the public realize if this occupation is regulated? Indicate clearly how the proposed regulation will correct or preclude consumer injury. Do these benefits go beyond freedom from harm? If so, in what way?
17. Which consumers of practitioner services are most in need of protection? Which require least protection? Which consumers will benefit most and least from regulation?
18. Provide evidence of “net” benefit when the following possible effects of regulation are considered:
 - a. Restriction of opportunity to practice;
 - b. Restricted supply of practitioners;
 - c. Increased costs of service to consumer; and
 - d. Increased governmental intervention in the marketplace.

Part III: *Regulation of the profession or occupation does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are inconsistent with the public interest.*

19. How many people seek services annually from this occupation? Will regulation of the occupation affect this figure? If so, in what way?
20. What is the current cost of the service provided (per episode or visit)? Estimate the total amount of money spent annually in Utah for the services of this group. How will regulation affect these costs? Provide documentation for your answers.
21. Provide a cost analysis supporting regulation of this occupation. Include costs to provide adequate regulatory functions during the first three years following implementation of this regulation. Assure that at least the following have been included:
 - a. Costs of program administration, including staffing;
 - b. Costs of developing and/or administering examinations; and
 - c. Costs of effective enforcement programs.
22. Does adoption of the requested regulation represent the most cost-effective form of regulation? Indicate alternatives considered and costs associated with each.

Part IV: *The occupation requires possession of knowledge, skills, and abilities that are both teachable and testable.*

23. Is there a generally accepted core set of knowledge, skills, and abilities without which a practitioner may cause public harm? Please describe and document.
24. What methods are currently used to define the requisite knowledge, skills, and abilities of practitioners? Who is responsible for defining these knowledge, skills, and abilities?
25. Are the knowledge, skills, and abilities testable? Is the work of the group sufficiently defined that competence could be evaluated by some standard (such as ratings of education, experience, or exam performance)?
26. List institutions and program titles offering accredited and nonaccredited preparatory programs in Utah. Estimate the annual number of graduates from each. If no such preparatory programs exist within Utah, where are the most accessible locations offering such programs?
27. Apart from the programs listed in question 26, indicate other methods of acquiring requisite knowledge, skill, and ability. Examples may include apprenticeships, internships, on-the-job training, individual study, etc.
28. Estimate the percentage of current practitioners trained by each of the methods described in items 26 and 27.
29. Does any examination or other measure currently exist to test for functional competence? If so, indicate how and by whom each was constructed and by whom it is currently administered. If not, indicate efforts to locate such measures.

30. If more than one examination is listed above, which standard do you intend to support? Why? If none of the above, why not, and what do you propose as an alternative?

Part V: *The occupation is clearly distinguishable from other occupations that are already regulated.*

31. What similar occupations are or have been regulated in Utah?

32. Describe functions performed by practitioners that differ from those performed by occupations listed in item 31.

33. Indicate the relationships among the groups listed in response to question 31 and practitioners. Can practitioners be considered a branch of currently regulated occupations?

34. What impact will the required regulation have upon the authority and scopes of practice of currently regulated occupations?

35. Are there other unregulated occupations performing services similar to those of the group to be regulated? If so, identify them.

Part VI: *The occupational or professional group has an established code of ethics, a voluntary certification program, or other measures to ensure a minimum quality of service.*

36. Does the occupation have an established code of ethics or a voluntary certification program? Please provide documentation of any codes or certification programs.

37. Are there current measures that ensure a minimum quality of service from practitioners? Why are these measures insufficient?

Part VII: *The public cannot be adequately protected by any means other than regulation.*

38. Explain why marketplace factors are not sufficient to ensure public safety. Document specific instances in which market controls have proven ineffective in assuring consumer protection.

39. Are there other states in which this occupation is regulated? If so, identify the states and indicate the way consumer protection is ensured in those states. Provide, as an appendix, copies of the regulatory provisions from these states.

40. What means other than governmental regulation of the occupation have been employed in Utah to protect consumer health and safety. Show why the following would be inadequate:

- a. A code of ethics;
- b. Codes of practice enforced by professional associations;
- c. Dispute-resolution mechanisms such as mediation or arbitration;
- d. Recourse to current applicable law;
- e. Regulation of those who employ or supervise practitioners; and
- f. Other measures attempted or contemplated.

Section D: PROPOSAL FOR REGULATION

41. Do you propose licensure, certification, registration, or another type of regulation? What is the justification for the level of regulation sought?
42. Describe the regulatory process that would administer this proposal focusing on the following areas:
 - a. Regulatory board, proposed make-up of the board, qualifications for membership on the board;
 - b. Examinations;
 - c. Inspections;
 - d. Renewal, revocation, or suspension of the right to practice this occupation or profession;
 - e. Handling of complaints and disciplinary actions to be taken against practitioners; and
 - f. Types and the amounts of fees to be collected. (Include fees for applications, examinations, original licenses, and renewals.)
43. What do you propose as minimum standards (education, training, and experience) for entry into this occupation? How accessible is the training and what is the anticipated cost?
44. Do you propose alternate routes of entry into the occupation, or alternate methods of meeting the training, education, and experience requirements? If so, describe.
45. Do you propose a “grandfather” clause in which current practitioners are exempted from compliance with proposed entry standards? If so, how is that clause justified? What safeguards will be provided for consumers? Will those who are grandfathered be required to meet the prerequisite qualifications at a later date?
46. Do you propose that renewal be based only upon payment of a fee, or do you propose it require re-examination, continuing education credits, peer review, or other enforcement? Be specific. State whether you propose that renewals be annual, biennial, or otherwise.
47. If a continuing education requirement is proposed, describe opportunities and costs of continuing education in Utah (or elsewhere if not available in the state).
48. What requirements do you propose for applicants from other states who have met the requirements for licensure or regulation in their former state?
49. How many practitioners are likely to apply initially if the proposed regulation is adopted? How many in each of the next three years?
50. Estimate the cost to the state to implement and administer the proposed regulatory program. Include board member travel and per-diem expenses, personnel costs to administer day-to-day functions, costs of materials, testing costs, inspection costs, enforcement costs, and other related costs.
51. Will all costs of implementation and administration be covered by projected revenues from fees? If not, what other sources of revenue could be used to cover the costs of regulation?